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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		09/753,792	SAMARI, CYRUS KUROSH
		Examiner	Art Unit	
		Dov Popovici	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>27 March 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>15,16,18 and 25-32</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>15,16,18 and 25-32</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/27/2009</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of
making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15-16, 18 and 25-32 are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the written description requirement. The claim(s) contains subject

matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention.

Claim 15, line 2-4, recites "receiving medical data through a software module and

parsing patient identification information and study information from the received

medical data" is subject matter which was not described in the specification in such a

way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the

time the application was filed, had possession of the claimed invention.

The specification recites "The first routine parses any DICOM Part 10 file found in

Incoming Directory 52. If any new files 61 are available, they are transferred to the

Temp Directory (d:\Temp) 63. For each different patient, a subdirectory is created under

the Temp Directory 63, and for each study of this patient, a subdirectory is created

under the patient directory." (See paragraph 0039).

Claim 15, line 8-11, recites "creating a job containing medical data, medical data

image viewing software, and a print file for an autoloader control software, the print file

having the stored parsed patient identification information and the stored parsed

study information" is subject matter which was not described in the specification in such

a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at

the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-16, 18, 25-26 and 29-32 are rejected under 35 U.S.C. 102(e) as being

anticipated by Wright et al. (U.S. Patent No. 7,302,164).

As to claim 15, Wright et al. discloses a medical data recording method (see

figures 1-5) comprising: receiving medical data through a software module and parsing

patient identification information and study information from the received medical

data (see figures 4 and 5, parsing patient identification information reads on: selecting a

patient from a list of patients, see column 7, lines 42-56, and col. 8, lines 35-36, and

study information reads on: selected exams and find and selected related image data

see figures 4 and 5), storing the parsed patient identification information and parsed

study information (see column 5, lines 50-60 "image data from the image server

database 202 are stored in DICOM format" and column 6, lines 37-58), noting the end

of the received medical data through the software module for each patient (see figures

4-5, where the flowchart reaches step 160 or 186, and asks to select another patient,

inherently discloses nothing the end of the received medical data through the software

module for each patient), creating a job containing medical data, medical data image

viewing software, and a print file for an autoloader control software, the print file having

the stored parsed patient identification information and the stored parsed study

information (see column 6, lines 4-67 and column 7, lines 1-20), submitting the job to

the autoloader control software, and recording a disc based on with the data produced

by the job such that the medical date viewing software is recorded on the disc along

with the medical data and printing a template containing the stored parsed patient

identification information and the stored parsed study information on the disc to label the

disc (see column 8, lines 4-20).

As to claim 16, Wright et al. discloses loading the viewing software which

automatically loads and displays the medical data after disc insertion in a computer (see

figure 1, 112 and column 6, lines 4-20).

As to claim 18, Wright et al. discloses backing up the medical data on a disc;

(see column 6, lines 4-27).

As to claim 25, Wright et al. discloses processing the received medical data to

comply with DICOM standards (see column 5, lines 50-56).

As to claim 26, Wright et al. discloses storing the job after the job has been created; (see figures 1, database 114 and see figure 3, step 143 and see column 5, lines 50-60 "image data from the image server database 202 are stored in DICOM format" and column 6, lines 37-58, and see figure 4, step 162, 164 and see fig. 5, steps 188, and 190).

As to claim 29, Wright et al. discloses wherein creating the job comprises utilizing a print file that includes a print template and print merge data (see column 6, lines 27-65).

As to claim 30, Wright et al. discloses wherein noting the end of the received medical data for each patient comprising utilizing a time out period (see figure 3, 128 and 130, and see column 5, lines 20-50 and see figures 4-5, where the flowchart reaches step 160 or 186, and asks to select another patient, inherently discloses nothing the end of the received medical data through the software module for each patient, utilizing time out period, after selecting exams and related image data).

As to claim 31, Wright et al. discloses wherein recording the disc comprising utilizing a CD (see column 6, lines 8-65).

As to claim 32, Wright et al. discloses wherein recording the disc comprising utilizing a disc having a format selected from a group consisting of: CDR, CDRW, DVD-R, DVD-RW, and DVDRAM (see column 3, lines 23-39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Wright et al. (U.S. Patent No. 7,302,164) in view of Farrell et al. (U.S. Patent No.

5,717,841).

As to claim 27, Wright et al. as modified does not specifically mentions deleting

the job after submitting the job to the autoloader control software.

Farrell et al. discloses a printing system and improving system performance,

efficiency and speed by reducing the number of inactive jobs stored in the system

memory. The number of inactive jobs can be reduced by causing automatic job

archiving and deletion upon the occurrence of a predetermined triggering event (see

column 2, lines 33-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to have modified Wright et al. to include: deleting the job

after submitting the job to the autoloader control software.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Wright et al. by the teaching of Farrell et al. to

include: deleting the job after submitting the job to the autoloader control software

because it would benefit Wright et al. because Wright et al.'s hard drive or memory would run out of storage space and/or memory space, if the created files stored in the hard drive would never be deleted. Therefore, by deleting the job after submitting the job to the autoloader control software, more memory space is made available to store other or newly created job(s) or data, while by deleting the job after submitting the job to the autoloader control software, more memory space is made available, thereby, improving the system performance, such as, faster system or processing speed and more storage or memory space availability, can be greatly improved with less stored job(s), data or file(s), and for the reasons taught by Farrell et al at column 2, lines 33-38, i.e., improving system performance, efficiency and speed by reducing the number of inactive jobs stored in the system memory. The number of inactive jobs can be reduced by causing automatic job archiving and deletion upon the occurrence of a predetermined triggering event.

As to claim 28, Wright et al. as modified does not specifically mentions deleting the job occurs automatically after recording of the disc has completed.

Farrell et al. discloses a printing system and improving system performance, efficiency and speed by reducing the number of inactive jobs stored in the system memory. The number of inactive jobs can be reduced by causing automatic job archiving and deletion upon the occurrence of a predetermined triggering event (see column 2, lines 33-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wright et al. to include: deleting the job occurs automatically after recording of the disc has completed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wright et al. by the teaching of Farrell et al. to include: deleting the job occurs automatically after recording of the disc has completed because it would benefit Wright et al. because Wright et al.'s hard drive or memory would run out of storage space and/or memory space, if the created jobs or files stored in the hard drive would never be deleted. Therefore, by deleting the job occurs automatically after recording of the disc has completed, more memory space will be made available to store other or newly created job(s) or data, while by deleting the job occurs automatically after recording of the disc has completed, more memory space will be made available, thereby, improving the system's performance, such as, faster system or processing speed and more storage or memory space availability, can be greatly improved with less stored job(s), data or file(s), and for the reasons taught by Farrell et al at column 2, lines 33-38, i.e., improving system performance, efficiency and speed by reducing the number of inactive jobs stored in the system memory. The number of inactive jobs can be reduced by causing automatic job archiving and deletion upon the occurrence of a predetermined triggering event.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15-16, 18, 26 and 29-32 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Pelanek et al. (U.S. Patent No. 5,724,582) in view of Kahle (U.S.

Patent No. 5,518,325) and further in view of Murray et al. (U.S. Patent No. 5,721,891),

or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pelanek et al. (U.S.

Patent No. 5,724,582) in view of Kahle (U.S. Patent No. 5,518,325) and further in view

of Murray et al. (U.S. Patent No. 5,721,891), and further in view of Wright et al. (U.S.

7,302,164 B2), or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pelanek et

al. (U.S. Patent No. 5,724,582) in view of Murray et al. (U.S. Patent No. 5,721,891), and

further in view of Wright et al. (U.S. 7,302,164 B2), or, in the alternative, under 35

U.S.C. 103(a) as obvious over Pelanek et al. (U.S. Patent No. 5,724,582) in view of

Wright et al. (U.S. 7,302,164 B2).

As to claims 15 and 29-30, Pelanek et al. discloses a medical data recording

method (see figures 1-5) comprising: receiving medical data (archive station 32 receives

medical data from medical image source 30, see figure 1) through a software module

and parsing patient identification information (see column 5, lines 40-62) and study

information from the received medical data (see column 5, lines 40-45 column 5, lines

25-30). Column 5, lines 42-45 indicates that the user enters the patient's name, ID

number, etc, into the archive station 32 by user input device 44, **if this information cannot be supplied via the XEM motion image source interface 58**. This clearly reads on: parsing patient identification information via interface 58. Storing the parsed patient identification information and parsed study information (storing the parsed patient identification information and parsed study information in the archive station 32). Creating a job (see column 5, lines 40-50; the collection of data that is being sent to the CD writer 60, see figure 3 and see figure 4) containing medical data, medical data image viewing software (the medical data image viewing software reads on: the file directory (see column 6, lines 22-30).

In the alternative, Pelanek et al. does not specifically specify medical data image viewing software.

Wright et al. discloses a system and method for producing medical image data onto portable digital recording media, and creating a job containing medical data, and medical data image viewing software (viewing program 112 and see col. 6, lines 4-12).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. wherein creating a job and recording a disc based on the job, wherein the job includes medical data and medical data image viewing software.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Wright et al. so that the disc will include the medical data and medical data image viewing software, so that the image data on each disc can be viewed on any computer

that accepts the disc, regardless of whether that computer has its own viewing program

installed, and for the reasons as taught by Wright et al. at column 6, lines 4-12.

Pelanek et al. discloses recording a disc (see figure 3, CD writer 60) based on

with the data produced by the job such that the medical date viewing software (reads

on: file directory) is recorded on the disc along with the medical data (see column 5,

lines 40-50 and col. 6, lines 20-30).

Pelanek et al does not specifically specify "creating a job containing a print file for

an autoloader control software, the print file having the stored parsed patient

identification information and the stored parsed study information, submitting the job to

the autoloader control software, and printing a template containing the stored parsed

patient identification information and the stored parsed study information on the disc to

label the disc and wherein creating the job comprises utilizing a print file that includes a

print template and print merge data."

Kahle teaches disk label printing and creating a job containing a print file (see

column 6, line 65 to column 7, line 5 and lines 20-65) and printing a template on the

disc to label the disc, wherein the print file includes a print template and print merge

data (see figures 1-2).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to have modified Pelanek et al. by creating a job

containing a print file for an autoloader control software, the print file having the stored

parsed patient identification information and the stored parsed study information,

submitting the job to the autoloader control software, and printing a template containing

the stored parsed patient identification information and the stored parsed study information on the disc to label the disc and wherein creating the job comprises utilizing a print file that includes a print template and print merge data.

It would also have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by Kahle because creating a job containing a print file having the parsed patient identification information and the stored parsed study information, submitting the job to the autoloader control software, and printing a template containing the stored parsed patient identification information and the stored parsed study information on the disc to label the disc and wherein creating the job comprises utilizing a print file that includes a print template and print merge data, would enable the user or the system to label the disc of the patient at the same time when recording the disc verses having to manually label each disc after the recording process, hence, this would provide a system for printing labels on disc immediately before and/or after it is recorded with data, without requiring the manual writing of information and the product quality and integrity as well as improved production cycle time can be assured as taught by Kahle at column 1, lines 40-50.

Pelanek et al discloses that because of the probable need to accept new data from the user's lab while the previous patient's data has not been completed archived buffer storage 52 has the capacity to hold a minimum of two long patient study cases (see column 5, lines 58-62).

Pelanek et al does not specifically specify "noting the end of the received medical data through the software module for each patient and wherein noting the end of the received medical data for each patient comprises utilizing a time out period."

Murray et al., in the same area of transmitting data, teaches a timer (see column 2, lines 30-35 and lines 40-50) is implemented to detect the end of the stream, wherein noting the end of the received data comprises utilizing a time out period (see column 2, lines 30-35 and 40-50, time out period reads on: timer expires see figure 1, box 2).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include: noting the end of the received medical data through the software module for each patient and wherein noting the end of the received medical data for each patient comprises utilizing a time out period.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Murray et al. because of the following reason(s): (a) it would improve the system of Pelanek et al. by detecting the end of data transmitted, as taught by Murray et al. at column 1, hence, each patient medical record can be separated by a time out period, and thus, this will prevent medical data from getting mixed up between different patients.

In the alternative, Wright et al. teaches creating a job containing medical data, medical data image viewing software, and a print file for an autoloader control software, the print file having the stored parsed patient identification information and the stored parsed study information and recording a disc based on the job such that the medical

data image viewing software is recorded on the disc along with the medical data and

printing a template containing the stored parsed patient identification information and

the stored parsed study information on the disc to label the disc.

        Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to have modified Pelanek et al. to include creating a

job containing medical data, viewing software and a print file and recording a disc based

on the job and printing a template on the disc to label the disc.

        It would also have been obvious to one having ordinary skill in the art at the

time the invention was made to have modified Pelanek et al. by Wright et al. because

creating a job containing a print file having the parsed patient identification information

and the stored parsed study information, submitting the job to the autoloader control

software, and printing a template containing the stored parsed patient identification

information and the stored parsed study information on the disc to label the disc and

wherein creating the job comprises utilizing a print file that includes a print template and

print merge data, would enable the user or the system to label the disc of the patient at

the same time when recording the disc verses having to manually label each disc after

the recording process, hence, this would provide a system for printing labels on disc

immediately before and/or after it is recorded with data, without requiring the manual

writing of information and the product quality and integrity as well as improved

production cycle time can be assured.

        In the alternative, Wright et al. teaches noting the end of the received medical

data through the software module for each patient (see figures 4-5, where the flowchart

reaches step 160 or 186, and asks to select another patient, inherently discloses

nothing the end of the received medical data through the software module for each

patient).

Wright et al. discloses wherein noting the end of the received medical data for

each patient comprising utilizing a time out period (see figure 3, 128 and 130, and see

column 5, lines 20-50 and see figures 4-5, where the flowchart reaches step 160 or 186,

and asks to select another patient, inherently discloses nothing the end of the received

medical data through the software module for each patient, utilizing time out period,

after selecting exams and related image data).

Therefore, it would have been obvious to a person with ordinary skill in the art at

the time the invention was made to have modified Pelanek et al. to include: noting the

end of the received medical data through the software module for each patient and

wherein noting the end of the received medical data for each patient comprises utilizing

a time out period.

It would have been obvious to a person with ordinary skill in the art at the time

the invention was made to have modified Pelanek et al. by the teaching of Wright et al.

because of the following reason(s): (a) it would improve the system of Pelanek et al. by

detecting the end of data transmitted, as taught by Wright et al. at figures 4 and 5,

hence, each patient medical record can be separated by a time out period, and thus,

this will prevent medical data from getting mixed up between different patients.

As to claim 16, Pelanek et al. as modified discloses loading the viewing software which automatically loads and displays the medical data after disc insertion in a computer (reads on: reading the file directory from CD 10 into memory 86 and the review station 34 is ready to begin displaying images on display 96; see column 6, lines 20-30 and see figure 4).

As to claim 18, Pelanek et al. as modified discloses backing up the medical data on a disc; (see column 3, lines 43-45 and column 5, lines 40-50).

As to claim 26, Pelanek et al. as modified discloses storing the job after the job has been created; (see figures 1, 3 and 4).

As to claim 31, Pelanek et al. as modified discloses wherein recording the disc comprising utilizing a CD (see figure 1, 3-4, CD writer 60 recording the disc comprising utilizing a CD 10).

As to claim 32, Pelanek et al. as modified discloses wherein recording the disc comprising utilizing a disc having a format selected from a group consisting of: CDR, CDRW, DVD-R, DVD-RW, and DVDRAM (see column 4, lines 24-30 where Pelanek et al. discloses CDR).

Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelanek et al. (U.S. Patent No. 5,724,582) in view of Kahle (U.S. Patent No. 5,518,325) and further in view of Murray et al. (U.S. Patent No. 5,721,891), or, in the alternative,

under 35 U.S.C. 103(a) as obvious over Pelanek et al. (U.S. Patent No. 5,724,582) in view of Kahle (U.S. Patent No. 5,518,325) and further in view of Murray et al. (U.S. Patent No. 5,721,891), and further in view of Wright et al. (U.S. 7,302,164 B2), or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pelanek et al. (U.S. Patent No. 5,724,582) in view of Murray et al. (U.S. Patent No. 5,721,891), and further in view of Wright et al. (U.S. 7,302,164 B2), or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pelanek et al. (U.S. Patent No. 5,724,582) in view of Wright et al. (U.S. 7,302,164 B2), as applied to claims 15 and 26 above, and further in view of Farrell et al. (U.S. Patent No. 5,717,841).

As to claim 27, Pelanek et al. as modified does not specifically mentions deleting the job after submitting the job to the autoloader control software.

Farrell et al. discloses a printing system and improving system performance, efficiency and speed by reducing the number of inactive jobs stored in the system memory. The number of inactive jobs can be reduced by causing automatic job archiving and deletion upon the occurrence of a predetermined triggering event (see column 2, lines 33-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include: deleting the job after submitting the job to the autoloader control software.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Farrell et al. to

include: deleting the job after submitting the job to the autoloader control software

because it would benefit Pelanek et al. because Pelanek et al.'s hard drive or memory

would run out of storage space and/or memory space, if the created files stored in the

hard drive would never be deleted. Therefore, by deleting the job after submitting the

job to the autoloader control software, more memory space is made available to store

other or newly created job(s) or data, while by deleting the job after submitting the job to

the autoloader control software, more memory space is made available, thereby,

improving the system performance, such as, faster system or processing speed and

more storage or memory space availability, can be greatly improved with less stored

job(s), data or file(s), and for the reasons taught by Farrell et al at column 2, lines 33-38,

i.e., improving system performance, efficiency and speed by reducing the number of

inactive jobs stored in the system memory. The number of inactive jobs can be reduced

by causing automatic job archiving and deletion upon the occurrence of a

predetermined triggering event.

As to claim 28, Pelanek et al. as modified does not specifically mentions deleting

the job occurs automatically after recording of the disc has completed.

Farrell et al. discloses a printing system and improving system performance,

efficiency and speed by reducing the number of inactive jobs stored in the system

memory. The number of inactive jobs can be reduced by causing automatic job

archiving and deletion upon the occurrence of a predetermined triggering event (see

column 2, lines 33-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include: deleting the job occurs automatically after recording of the disc has completed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Farrell et al. to include: deleting the job occurs automatically after recording of the disc has completed because it would benefit Pelanek et al. because Pelanek et al.'s hard drive or memory would run out of storage space and/or memory space, if the created jobs or files stored in the hard drive would never be deleted. Therefore, by deleting the job occurs automatically after recording of the disc has completed, more memory space will be made available to store other or newly created job(s) or data, while by deleting the job occurs automatically after recording of the disc has completed, more memory space will be made available, thereby, improving the system's performance, such as, faster system or processing speed and more storage or memory space availability, can be greatly improved with less stored job(s), data or file(s), and for the reasons taught by Farrell et al at column 2, lines 33-38, i.e., improving system performance, efficiency and speed by reducing the number of inactive jobs stored in the system memory. The number of inactive jobs can be reduced by causing automatic job archiving and deletion upon the occurrence of a predetermined triggering event.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pelanek

et al. (U.S. Patent No. 5,724,582) in view of Kahle (U.S. Patent No. 5,518,325) and

further in view of Murray et al. (U.S. Patent No. 5,721,891), or, in the alternative, under

35 U.S.C. 103(a) as obvious over Pelanek et al. (U.S. Patent No. 5,724,582) in view of

Kahle (U.S. Patent No. 5,518,325) and further in view of Murray et al. (U.S. Patent No.

5,721,891), and further in view of Wright et al. (U.S. 7,302,164 B2), or, in the alternative,

under 35 U.S.C. 103(a) as obvious over Pelanek et al. (U.S. Patent No. 5,724,582) in

view of Murray et al. (U.S. Patent No. 5,721,891), and further in view of Wright et al.

(U.S. 7,302,164 B2), or, in the alternative, under 35 U.S.C. 103(a) as obvious over

Pelanek et al. (U.S. Patent No. 5,724,582) in view of Wright et al. (U.S. 7,302,164 B2),

as applied to claim 15 above, and further in view of Koritzinsky et al. (U.S. Patent No.

6,988,074).

As to claim 25, Pelanek et al. as modified does not specifically discloses

processing the received medical data to comply with DICOM standards.

Koritzinsky et al. or Wright et al., in the same area of medical images, teaches

that DICOM is widely used for data presentation in the medical field and processing

received medical data to comply with DICOM standards (see Koritzinsky et al. at

column 8, lines 10-32 and column 16, lines 5-27 and see Wright et al., at col. 3, lines

60-65 and col. 4, lines 1-10).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include: processing the received medical data to comply with DICOM standards.

It would have been obvious to one person having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. as modified by the teaching of Koritzinsky et al. or Wright et al. to include processing the received medical data to comply with DICOM standards, so that all users of the network or received medical data can comply with the DICOM standards and for providing compatibility among all users, network and received medical data; and (b) it would allow the stored images or the received medical data to be view by other medical systems.

Response to Arguments

Applicant's arguments filed 03/27/2009 have been fully considered but they are not persuasive.

Applicant argument that "Wright '164 is not prior art" has been considered, but is not found to be persuasive. Wright '164 contains a provisional application No. 60/181,985, filed on Feb. 11, 2000. The instant application filing date is Jan. 2, 2001. Thus, the provisional date of Feb. 11, 2000 is earlier then the instant application filing date.

Applicant further argues that Wright 60/181,985 does not teach or describe at least the following:

1. Parsing patient identification information and study information from the

received medical data.

2. Noting the end of the received medical data through the software module for

each patient.

3. Creating a job containing a print file for an autoloader control software where

the print file includes the stored parsed patient identification information and the

stored parsed study information.

For the foregoing reasons, Wright '164 is not entitled to claim the priority date of the

related Wright '185 provisional application for the features utilized in the current 35 USC

102(e) and 35 USC 103(a) rejections of the presently pending claims. Thus, the Wright

'164 patent is not actually prior art under 35 USC 102(e) or 35 USC 103(a) and any

rejection of the pending claims based on this reference must be withdrawn.

After carefully reviewing the Wright application 60/181,985, support has been

found in the section "CopyDat (TM) Functional Operation" section (page 25).

That portion is reproduced here below:

CopyDa t ^{TM} Functional Operation

CopyDat ^{TM} is a self contained PC based application, it can be a single 500
MHz Pentium based PC with 128 MB of RAM and a 18 GIG hard drive and a SCSI based CD-RW device.
The DatCard PC will provide DICOM SCP (Store) network services using TCPIP allowing it to receive
images from any digital device on the network that supports DICOM SCU (User). The CopyDat ^{TM} PC
will receive the images from the imaging modality and then store the images to its hard disk. This process
happens without human intervention. When images are requested by outside sources any user with the
proper security Can Walk up to the DatCard PC type in the patients name and/or identification number,
review the images and write them to the DatCard ^{TM} CD. The system will also simultaneously print a label
containing the patient's demographics that will then be attached to the CD. The-card is then given to the
patient and/or delivered to the requesting physician or institution.

Once the DatCard ^{TM} CD is delivered to the requesting physician or institution, they can simply insert it
into a standard PC CD-ROM drive. Automatically, the physician is presented with the systems default web
browser to be followed by DatCard's patient demographic page. The page will display, at a minimum the

patient's name, ID number, date of birth, procedure description, exam number and procedure date. When the user clicks on the procedure hyperlink the DICOM image viewer will launch and display the images. The image viewer will allow the user to perform basic image manipulation such as window/level, magnification, pan/zoom, and rotation orientation in multiple image formats and/or stack mode. (see page 25).

Therefore, the Wright application provisional filing date of Feb. 11, 2000 still seems proper and therefore is relied upon.

Applicant argument that Wright et al. does not teach or describes at least the following:

1. Parsing patient identification information and study information from the received medical data.

2. Noting the end of the received medical data through the software module for each patient.

3. Creating a job containing a print file for an autoloader control software where the print file includes the stored parsed patient identification information and the stored parsed study information.

Applicant argument has been considered, but not found to be persuasive because of the following reason(s):

Wright et al. discloses receiving medical data through a software module and parsing patient identification information and study information from the received medical data (see figures 4 and 5, parsing patient identification information reads on: selecting a patient from a list of patients, see column 7, lines 42-56, and col. 8, lines 35-36, and study information reads on: selected exams and find and selected related image data see figures 4 and 5).

Wright et al. discloses noting the end of the received medical data through the software module for each patient (see figures 4-5, where the flowchart reaches step 160 or 186, and asks to select another patient, inherently this discloses nothing the end of the received medical data through the software module for each patient).

Wright also discloses creating a job containing medical data, medical data image viewing software, and a print file for an autoloader control software, the print file having the stored parsed patient identification information and the stored parsed study information (see column 6, lines 4-67 and column 7, lines 1-20, and column 8, lines 4-20).

Applicant argument that "Furthermore in reference to creating a job containing a print file that includes the stored parsed patient identification information and the stored parsed study information, Wright '164, column 6, lines 4-67 and column 7, lines 1-20 is identified as teaching this feature. While this passage mentions a label printing file includes the patient name and exam modality as well as other study information, it does not mention where this label information comes from. In particular, there is no mention of using information on the label that was originally parsed from received medical image data file.", the argument has been considered, but not found to be persuasive. Wright teaches that the label printing file includes information such as patient name, exam modality, and etc. (see col. 6, lines 30-37) to be printed as a label on top of each CD produced. This information comes from selecting a patient from a list of patients (col. 7,

line 43) and selecting exams and finding and selecting related image data (see figures 4

and 5), which reads on parsing patient identification information and study information.

Applicant argument that "Applicant respectfully disagrees with the Examiner's

characterization in Pelanek of a file directory on a CD as being equivalent to recording

medical data viewing software on the disc. As previously explained, claim 15 describes

recording on the disc both medical data and viewing software. In the interest of

facilitating examination and allowance of the pending claims, the language of claim 15

has been amended to further clarify that the recording step records a disc such that the

medical data is recorded on the disc along with medical data image viewing software.

As previously acknowledged by the Examiner this feature is not taught or suggested by

Pelanek.", the argument has been fully considered, but is not found to be pervasive

because of the following reason(s):

Pelanek et al. discloses creating a job (see column 5, lines 40-50; the collection

of data that is being sent to the CD writer 60, see figure 3 and see figure 4) containing

medical data, and medical data image viewing software (the medical data image

viewing software reads on: the file directory (see column 6, lines 22-30).

In the alternative, Pelanek et al. does not specifically specify medical data image

viewing software.

Wright et al. discloses a system and method for producing medical image data

onto portable digital recording media, and creating a job containing medical data, and

medical data image viewing software (viewing program 112 and see col. 6, lines 4-12).

Therefore, it would have been obvious to one having ordinary skill in the art at
the time the invention was made to have modified Pelanek et al. wherein creating a job
and recording a disc based on the job, wherein the job includes medical data and
medical data image viewing software.

It would have been obvious to one having ordinary skill in the art at
the time the invention was made to have modified Pelanek et al. by the teaching of
Wright et al. so that the disc will include the medical data and medical data image
viewing software, so that the image data on each disc can be viewed on any computer
that accepts the disc, regardless of whether that computer has its own viewing program
installed, and for the reasons taught by Wright et al. at column 6, lines 4-12.

Applicant argument that "Applicant agrees with the Examiner that Pelanek does
not teach creating a job containing a print file for autoloader control software where the
print file has the stored parsed patient identification information and the stored parsed
study information. Kahle is cited as teaching disk label printing. The Applicant agrees
that Kahle generally describes disk labeling, but Kahle does not mention a need or
desire to work with medical records or any special needs on labeling disks when
working with medical records. Neither Pelanek nor Kahle teach that the source of the
data printed on the disc includes parsed patient identification information and parsed
study information as claimed in claim 15. The Examiner asserts that it would have been
obvious to do so. This is a rather curious assertion, because Pelanek does not mention
the desire to label a disk and Kahle does not mention what is desirable to be put on a

label let alone where the source data for the label is from." The argument has been fully

considered, but is not found to be pervasive because of the following reason(s):

(1) In response to applicant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986).

(2) Pelanek et al. discloses a medical data recording method (see figures 1-5)

comprising: receiving medical data (archive station 32 receives medical data from

medical image source 30, see figure 1) through a software module and parsing patient

identification information (see column 5, lines 40-62) and study information from the

received medical data (see column 5, lines 40-45 column 5, lines 25-30). Column 5,

lines 42-45 indicates that the user enters the patient's name, ID number, etc, into the

archive station 32 by user input device 44, **if this information cannot be supplied via**

the XEM motion image source interface 58. This clearly reads on: parsing patient

identification information via interface 58. Storing the parsed patient identification

information and parsed study information (storing the parsed patient identification

information and parsed study information in the archive station 32). Creating a job (see

column 5, lines 40-50; the collection of data that is being sent to the CD writer 60, see

figure 3 and see figure 4) containing medical data, medical data image viewing software

(the medical data image viewing software reads on: the file directory (see column 6, lines 22-30).

In the alternative, Pelanek et al. does not specifically specify medical data image viewing software.

Wright et al. discloses a system and method for producing medical image data onto portable digital recording media, and creating a job containing medical data, and medical data image viewing software (viewing program 112 and see col. 6, lines 4-12).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. wherein creating a job and recording a disc based on the job, wherein the job includes medical data and medical data image viewing software.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Wright et al. so that the disc will include the medical data and medical data image viewing software, so that the image data on each disc can be viewed on any computer that accepts the disc, regardless of whether that computer has its own viewing program installed, and for the reasons as taught by Wright et al. at column 6, lines 4-12.

Pelanek et al. discloses recording a disc (see figure 3, CD writer 60) based on with the data produced by the job such that the medical date viewing software (reads on: file directory) is recorded on the disc along with the medical data (see column 5, lines 40-50 and col. 6, lines 20-30).

Pelanek et al does not specifically specify "creating a job containing a print file for an autoloader control software, the print file having the stored parsed patient identification information and the stored parsed study information, submitting the job to the autoloader control software, and printing a template containing the stored parsed patient identification information and the stored parsed study information on the disc to label the disc and wherein creating the job comprises utilizing a print file that includes a print template and print merge data."

Kahle teaches disk label printing and creating a job containing a print file (see column 6, line 65 to column 7, line 5 and lines 20-65) and printing a template on the disc to label the disc, wherein the print file includes a print template and print merge data (see figures 1-2).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by creating a job containing a print file for an autoloader control software, the print file having the stored parsed patient identification information and the stored parsed study information, submitting the job to the autoloader control software, and printing a template containing the stored parsed patient identification information and the stored parsed study information on the disc to label the disc and wherein creating the job comprises utilizing a print file that includes a print template and print merge data.

It would also have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by Kahle because creating a job containing a print file having the parsed patient identification information and the

stored parsed study information, submitting the job to the autoloader control software, and printing a template containing the stored parsed patient identification information and the stored parsed study information on the disc to label the disc and wherein creating the job comprises utilizing a print file that includes a print template and print merge data, would enable the user or the system to label the disc of the patient at the same time when recording the disc verses having to manually label each disc after the recording process, hence, this would provide a system for printing labels on disc immediately before and/or after it is recorded with data, without requiring the manual writing of information and the product quality and integrity as well as improved production cycle time can be assured as taught by Kahle at column 1, lines 40-50.

In the alternative, Wright et al. teaches creating a job containing medical data, medical data image viewing software, and a print file for an autoloader control software, the print file having the stored parsed patient identification information and the stored parsed study information and recording a disc based on the job such that the medical data image viewing software is recorded on the disc along with the medical data and printing a template containing the stored parsed patient identification information and the stored parsed study information on the disc to label the disc.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include creating a job containing medical data, viewing software and a print file and recording a disc based on the job and printing a template on the disc to label the disc.

It would also have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by Wright et al. because creating a job containing a print file having the parsed patient identification information and the stored parsed study information, submitting the job to the autoloader control software, and printing a template containing the stored parsed patient identification information and the stored parsed study information on the disc to label the disc and wherein creating the job comprises utilizing a print file that includes a print template and print merge data, would enable the user or the system to label the disc of the patient at the same time when recording the disc verses having to manually label each disc after the recording process, hence, this would provide a system for printing labels on disc immediately before and/or after it is recorded with data, without requiring the manual writing of information and the product quality and integrity as well as improved production cycle time can be assured.

Applicant argument that "Applicant agrees with the Examiner that Pelanek does not teach noting the end of the received medical data through the software module for each patient. Murray is cited as teaching a timer to detect the end of a transmitted data stream. The Applicant agrees that Murray generally describes timers and detecting ends of transmitted streams, but Murray does not mention a need or desire to work with medical records or associating the end of data streams with a patient. The Examiner asserts that it would have been obvious to do so.", the argument has been fully considered, but not found to be pervasive because of the following reason(s):

(1) In response to applicant's arguments against the references individually, one
cannot show nonobviousness by attacking references individually where the rejections
are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208
USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.
1986).

(2) Pelanek et al. discloses a medical data recording method (see figures 1-5)
comprising: receiving medical data (archive station 32 receives medical data from
medical image source 30, see figure 1) through a software module and parsing patient
identification information (see column 5, lines 40-62) and study information from the
received medical data (see column 5, lines 40-45 column 5, lines 25-30). Column 5,
lines 42-45 indicates that the user enters the patient's name, ID number, etc, into the
archive station 32 by user input device 44, **if this information cannot be supplied via
the XEM motion image source interface 58**. This clearly reads on: parsing patient
identification information via interface 58. Storing the parsed patient identification
information and parsed study information (storing the parsed patient identification
information and parsed study information in the archive station 32). Creating a job (see
column 5, lines 40-50; the collection of data that is being sent to the CD writer 60, see
figure 3 and see figure 4) containing medical data, medical data image viewing software
(the medical data image viewing software reads on: the file directory (see column 6,
lines 22-30).

Pelanek et al. discloses recording a disc (see figure 3, CD writer 60) based on
with the data produced by the job such that the medical date viewing software (reads

on: file directory) is recorded on the disc along with the medical data (see column 5, lines 40-50 and col. 6, lines 20-30).

Pelanek et al discloses that because of the probable need to accept new data from the user's lab while the previous patient's data has not been completed archived buffer storage 52 has the capacity to hold a minimum of two long patient study cases (see column 5, lines 58-62).

Pelanek et al does not specifically specify "noting the end of the received medical data through the software module for each patient and wherein noting the end of the received medical data for each patient comprises utilizing a time out period."

Murray et al., in the same area of transmitting data, teaches a timer (see column 2, lines 30-35 and lines 40-50) is implemented to detect the end of the stream, wherein noting the end of the received data comprises utilizing a time out period (see column 2, lines 30-35 and 40-50, time out period reads on: timer expires see figure 1, box 2).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include: noting the end of the received medical data through the software module for each patient and wherein noting the end of the received medical data for each patient comprises utilizing a time out period.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Murray et al. because of the following reason(s): (a) it would improve the system of Pelanek et al. by detecting the end of data transmitted, as taught by Murray et al. at column 1, hence,

each patient medical record can be separated by a time out period, and thus, this will prevent medical data from getting mixed up between different patients.

In the alternative, Wright et al. teaches noting the end of the received medical data through the software module for each patient (see figures 4-5, where the flowchart reaches step 160 or 186, and asks to select another patient, inherently discloses nothing the end of the received medical data through the software module for each patient).

Wright et al. discloses wherein noting the end of the received medical data for each patient comprising utilizing a time out period (see figure 3, 128 and 130, and see column 5, lines 20-50 and see figures 4-5, where the flowchart reaches step 160 or 186, and asks to select another patient, inherently discloses nothing the end of the received medical data through the software module for each patient, utilizing time out period, after selecting exams and related image data).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek et al. to include: noting the end of the received medical data through the software module for each patient and wherein noting the end of the received medical data for each patient comprises utilizing a time out period.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek et al. by the teaching of Wright et al. because of the following reason(s): (a) it would improve the system of Pelanek et al. by

detecting the end of data transmitted, as taught by Wright et al. at figures 4 and 5,

hence, each patient medical record can be separated by a time out period, and thus,

this will prevent medical data from getting mixed up between different patients.

        In response to applicant's argument that Pelanek, Kahle, and Murray is

nonanalogous art, it has been held that a prior art reference must either be in the field of

applicant's endeavor or, if not, then be reasonably pertinent to the particular problem

with which the applicant was concerned, in order to be relied upon as a basis for

rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443

(Fed. Cir. 1992). In this case, Pelanek is analogous because it is directed to medical

data recording method (see figures 1-5), Wright et al. is analogous because it is

directed to producing medical image data onto portable digital recording media, Kahle is

analogous because its directed to disk label printing and Murray is analogous because

he is directed to transmitting data and a timer is implemented to detect the end of the

stream utilizing time out period.

        In response to applicant's argument that the examiner's conclusion of

obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dov Popovici whose telephone number is 571-272-4083. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dov   Popovici/
Primary Examiner, Art Unit 2625